

Appl. No. : 10/523,898  
Filed : August 6, 2003

### REMARKS

Claims 1-7 and 9-19 stand rejected. Claim 8 is objected to, but would be allowable if rewritten into independent form to include all the limitations of the base claim and any intervening claim. Claim 20 was previously canceled. By this paper, Claims 6-8 and 12 are canceled and Claims 1-5, 9-11, and 13-19 are amended. No new matter has been added. Thus, Claims 1-5, 9-11, and 13-19 are presented for consideration and further examination in view of the following amendments and remarks.

#### Objection to the Drawings

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. 1.83(a) for failing to show the “jaw displacement system” recited in Claim 12. Claim 12 has been canceled. Thus, Applicant respectfully requests that the objection to the drawings be withdrawn.

#### Objections to the Specification

The Specification was objected to for various informalities. Specifically, the Abstract was objected to for including legal phraseology and the disclosure was objected to for containing grammatical errors in two paragraphs. The Abstract has been amended to improve its clarity according to the Examiner’s suggestions. The paragraph beginning at page 2, line 25 has been replaced with a corrected paragraph. The corrected paragraph contains the exact text that was originally filed in PCT Application No. NZ2003/000173 from which this application claims priority. The grammatical error was inadvertently introduced by an amendment made during the PCT phase. The subject matter of the amendment made during the PCT phase did not concern the text of the corrected paragraph. The paragraph beginning at page 7, line 23, has also been replaced with a corrected paragraph. No new matter has been added by either amendment. Thus, Applicant respectfully submits that the objections to the specification should be withdrawn.

#### Rejection of Claims 1-19 under 35 U.S.C. § 112, second paragraph

The Examiner rejected Claims 1-19 under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner states that the recitation of “upper and/or lower jaws” in

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independent Claim 1 renders that claim, and all of its dependent claims, indefinite. Additionally, the Examiner states that the recitation of "jaw displacement system" in Claim 12 renders that claim unclear.

Applicant has amended independent Claim 1 to recite "upper and lower jaws," thus clarifying independent Claim 1 and its dependent claims. Applicant has also canceled Claim 12. Thus, Applicant respectfully submits that these rejections have been overcome.

Rejection of Claims 1-7, 9-11, 13-15, and 18 under 35 U.S.C. § 102(b)

In the Office Action, the Examiner rejected Claims 1-7, 9-11, 13-15, and 18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,406,412 (Alexandersson). Claims 16, 17, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,183,216 (Wack) in view of Alexandersson. The Examiner did, however, find allowable subject matter in dependent Claim 8.

Independent Claim 1 has been substantially rewritten to generally include the limitations of Claim 8 and any intervening claims. For example, amended Claim 1 recites, "wherein at least one of the upper and lower jaws from each set of jaws is fixed, the fixed jaws being fixed at a different angle relative to a common pivot axis." Thus, Applicant respectfully submits that the rejection under 35 U.S.C. § 102(b) is inapplicable to amended Claim 1.

Further, Applicant submits that Alexandersson fails to disclose a device in which "a single actuation... is adapted to cause each of said sets of jaws to at least partially close in sequence," as recited in independent Claim 1. This feature allows for a single actuator, such as a single hydraulic ram, to actuate and control all jaw sets. Instead, Alexandersson discloses a jaw crusher requiring multiple actuations of individual driving means in order to actuate each set of jaws in a controlled order (See column 2, lines 30-36 and 40-61).

Claims 1-5, 9-11, and 13-19 depend, directly or indirectly, from independent Claim 1 and, thus, are patentable for at least the same reasons that the claim from which they depend is patentable over the applied art. Therefore, allowance of Claims 1-5, 9-11, and 13-19 is respectfully requested.

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### **CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art discloses or teaches, even if not expressly discussed herein. Applicant has not presented arguments concerning whether the applied references can be properly combined, and Applicant reserves the right to later contest whether a proper motivation and suggestion exists to combine these references in light of the clearly missing element noted above. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language.

The undersigned has made a good faith effort to respond to all of the noted rejections and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if an issue requires clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve any such issue promptly.

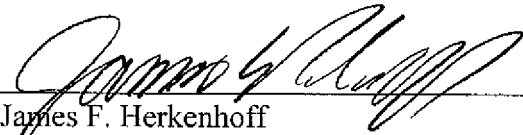
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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